IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 18637 of 2004

Between:

Smt. Yacham Soujanya, W/o.Y.Ravinder,
R/o.H.No.1-9-11/15/2/1, Kishan Nagar Colony,
Medak.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Medak.
2 The Mandal Revenue Officer, Medak.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in seeking to evict, dispossess and stop construction of the petitioner by resorting to summary enquiry contemplated under A.P. Land Encroachment Act, 1905 and the consequential notice issued by the respondent No.2 in No.F/7975/2004 dated: 1-10-2004 as arbitrary, illegal and void, without power or authority and consequently direct the respondents to refrain from in any way interfering with the construction of the petitioner in her plot NO. 19 in L.P.No.142/88 in survey No.701 situated at Kishan Nagar, Medak.

Counsel for the Petitioner:MR.T.P.ACHARYA

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following ORDER:

The petitioner, who claims to be in possession of the land admeasuring 276 sq.yards out of survey No.701 situated at Kishan Nagar Colony, Medak District, filed O.S.No.59 of 2004 before the learned Senior Civil Judge, Medak, for perpetual injunction against the third parties and obtained temporary injunction in I.A.No.457 of 2004. Now, she complains that at the instance of the defendants in the said suit, the impugned notice dated 01-10-2004, issued by the second respondent-Mandal Revenue Officer, Medak, under Section 7 of Andhra Pradesh Land Encroachment Act (for short "the Act") was affixed to her property, where she was proceeding with the construction. Against the said affixture of notice issued under Section 7 of the Act, the petitioner submitted her explanation to the second respondent-Mandal Revenue Officer, Medak, on 11-10-2004 and also filed the present writ petition apprehending that the respondents may dispossess her without following the due procedure and passing final orders.

In view of the fact that the petitioner was served with the notice under Section 7 of the Act, it is obligatory on the part of the second respondent to conduct an enquiry and pass final orders under Section 6 of the Act and only after communicating the said order and after expiry of the appeal period, if any, the second respondent can take possession of the property in question. However, without passing final orders and serving a copy on the petitioner, the respondents cannot dispossess the petitioner or stop the construction, which is proceeded with as per the sanctioned

plan.

With the above observation, the writ petition is disposed of. No costs.

12th OCTOBER, 2004.

Note: furnish c.c. tomorrow.

B/o

kvni

To

1 The Revenue Divisional Officer, Medak.
2 The Mandal Revenue Officer, Medak.

3 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.